

AMENDMENTS TO LB156

(Amendments to Standing Committee amendments, AM223)

Introduced by Wayne, 13.

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Sections 1 to 13 of this act shall be known and may be
4 cited as the Municipal Inland Port Authority Act.

5 Sec. 2. The Legislature finds and declares as follows:

6 (1) Nebraska is ideally situated as a potential industrial and
7 logistical hub for multiple industries across the rest of the country.
8 The state is home to major railroads and trucking firms, and is within a
9 two-day drive to major cities on the east coast, west coast, Mexico, and
10 Canada;

11 (2) Increasingly, major companies looking to locate their
12 headquarters or expand operations seek large shovel-ready commercial and
13 industrial sites, commonly referred to as mega sites;

14 (3) Nebraska currently lacks the economic development tools
15 necessary to acquire and develop large shovel-ready commercial and
16 industrial sites, and the creation of one or more inland port authorities
17 in Nebraska could serve as a mechanism to develop such sites; and

18 (4) In addition to the development of large shovel-ready commercial
19 and industrial sites, the creation of one or more inland port authorities
20 could serve as a regional merging point for multi-modal transportation
21 and distribution of goods to and from ports and other locations in other
22 regions.

23 Sec. 3. For purposes of the Municipal Inland Port Authority Act:

24 (1) Board means the board of commissioners of an inland port
25 authority;

26 (2) City means any city of the metropolitan class, city of the

1 primary class, or city of the first class which contains an area eligible
2 to be designated as an inland port district;

3 (3) Direct financial benefit means any form of financial benefit
4 that accrues to an individual directly, including compensation,
5 commission, or any other form of a payment or increase of money, or an
6 increase in the value of a business or property. Direct financial benefit
7 does not include a financial benefit that accrues to the public
8 generally;

9 (4) Family member means a spouse, parent, sibling, child, or
10 grandchild;

11 (5) Inland port authority means an authority created by a city,
12 county, or a city and one or more counties under the Municipal Inland
13 Port Authority Act to manage an inland port district;

14 (6) Inland port district means an area within the corporate
15 boundaries or extraterritorial zoning jurisdiction or both of a city,
16 within the boundaries of one or more counties, or within both the
17 corporate boundaries or extraterritorial zoning jurisdiction or both of a
18 city and the boundaries of one or more counties, and which meets at least
19 two of the following criteria:

20 (a) Is located within one mile of a navigable river or other
21 navigable waterway;

22 (b) Is located within one mile of a major rail line;

23 (c) Is located within two miles of any portion of the federally
24 designated National System of Interstate and Defense Highways or any
25 other four-lane divided highway; or

26 (d) Is located within two miles of a major airport;

27 (7) Intermodal facility means a hub or other facility for trade
28 combining any combination of rail, barge, trucking, air cargo, or other
29 transportation services;

30 (8) Major airport means an airport with commercial service as
31 defined by the Federal Aviation Administration; and

1 (9) Major rail line means a rail line that is accessible to a Class
2 I railroad as defined by the federal Surface Transportation Board.

3 Sec. 4. (1) Any city which encompasses an area greater than three
4 hundred acres eligible to be designated as an inland port district may
5 propose to create an inland port authority by ordinance, subject to the
6 cap on the total number of inland port districts provided in subsection
7 (4) of this section. In determining whether to propose the creation of an
8 inland port authority, the city shall consider the following criteria:

9 (a) The desirability and economic feasibility of locating an inland
10 port district within the corporate boundaries, extraterritorial zoning
11 jurisdiction, or both of the city;

12 (b) The technical and economic capability of the city and any other
13 public and private entities to plan and carry out development within the
14 proposed inland port district;

15 (c) The strategic location of the proposed inland port district in
16 proximity to existing and potential transportation infrastructure that is
17 conducive to facilitating regional, national, and international trade and
18 the businesses and facilities that promote and complement such trade;

19 (d) The potential impact that development of the proposed inland
20 port district will have on the immediate area; and

21 (e) The regional and statewide economic impact of development of the
22 proposed inland port district.

23 (2) Any city and one or more counties in which a city of the
24 metropolitan class, city of the primary class, or city of the first class
25 is located, or in which the extraterritorial zoning jurisdiction of such
26 city is located, which encompass an area greater than three hundred acres
27 eligible to be designated as an inland port district may enter into an
28 agreement pursuant to the Interlocal Cooperation Act to propose joint
29 creation of an inland port authority, subject to the cap on the total
30 number of inland port districts provided in subsection (4) of this
31 section. In determining whether to propose the creation of an inland port

1 authority, the city and counties shall consider the following criteria:

2 (a) The desirability and economic feasibility of locating an inland
3 port district within the corporate boundaries or extraterritorial zoning
4 jurisdiction or both of the city, or within both the corporate boundaries
5 or extraterritorial zoning jurisdiction or both of a city and the
6 boundaries of one or more counties;

7 (b) The technical and economic capability of the city and county or
8 counties and any other public and private entities to plan and carry out
9 development within the proposed inland port district;

10 (c) The strategic location of the proposed inland port district in
11 proximity to existing and potential transportation infrastructure that is
12 conducive to facilitating regional, national, and international trade and
13 the businesses and facilities that promote and complement such trade;

14 (d) The potential impact that development of the proposed inland
15 port district will have on the immediate area; and

16 (e) The regional and statewide economic impact of development of the
17 proposed inland port district.

18 (3) Any county with a population greater than twenty thousand
19 inhabitants according to the most recent federal census or the most
20 recent revised certified count by the United States Bureau of the Census
21 which encompasses an area greater than three hundred acres eligible to be
22 designated as an inland port district may propose to create an inland
23 port authority by resolution, subject to the cap on the total number of
24 inland port districts provided in subsection (4) of this section. In
25 determining whether to propose the creation of an inland port authority,
26 the county shall consider the following criteria:

27 (a) The desirability and economic feasibility of locating an inland
28 port district within the county;

29 (b) The technical and economic capability of the county and any
30 other public or private entities to plan and carry out development within
31 the proposed inland port district;

1 (c) The strategic location of the proposed inland port district in
2 proximity to existing and potential transportation infrastructure that is
3 conducive to facilitating regional, national, and international trade and
4 the businesses and facilities that promote and complement such trade;

5 (d) The potential impact that development of the proposed inland
6 port district will have on the immediate area; and

7 (e) The regional and statewide economic impact of development of the
8 proposed inland port district.

9 (4) No more than five inland port districts may be designated
10 statewide. No inland port authority shall designate more than one inland
11 port district, and no inland port authority may be created without also
12 designating an inland port district.

13 (5) Following the adoption of an ordinance, resolution, or execution
14 of an agreement pursuant to the Interlocal Cooperation Act proposing
15 creation of an inland port authority, the city clerk or county clerk
16 shall transmit a copy of such ordinance, resolution, or agreement to the
17 Department of Economic Development. Upon receipt of such ordinance,
18 resolution, or agreement, the Director of Economic Development shall
19 certify to the city clerk or county clerk whether the proposed creation
20 of such inland port authority exceeds the cap on the total number of
21 inland port districts pursuant to subsection (4) of this section. If the
22 proposed inland port authority does not exceed such cap, the inland port
23 authority shall be deemed created. If the proposed inland port authority
24 exceeds such cap, the city shall repeal such ordinance, the county shall
25 repeal such resolution, or the city and county or counties shall rescind
26 such agreement and the proposed inland port authority shall not be
27 created.

28 Sec. 5. (1) The city council of any city which has created an
29 inland port authority pursuant to subsection (1) of section 4 of this act
30 shall designate what areas within the corporate limits, extraterritorial
31 zoning jurisdiction, or both of the city shall comprise the inland port

1 district, subject to the limitations of the Municipal Inland Port
2 Authority Act. The boundaries of any inland port district shall be filed
3 with the city clerk and shall become effective upon approval of the city
4 council. The city council may from time to time enlarge or reduce the
5 area comprising any inland port district, except that such district shall
6 not be reduced to an area less than three hundred acres. Any change of
7 boundaries shall be filed with the city clerk and become effective upon
8 such filing.

9 (2) The city council of any city and county board of any county or
10 counties which have created an inland port authority pursuant to
11 subsection (2) of section 4 of this act shall designate what areas within
12 the corporate limits, extraterritorial zoning jurisdiction, or both of
13 the city or within the county or counties shall comprise the inland port
14 district, subject to the limitations of the Municipal Inland Port
15 Authority Act. The boundaries of any inland port district shall be filed
16 with the city clerk and the county clerk or clerks and shall become
17 effective upon approval of the city council and the county board or
18 boards. The city council and the county board or boards may from time to
19 time enlarge or reduce the area comprising any inland port district,
20 except that such district shall not be reduced to an area less than three
21 hundred acres. Any change of boundaries shall be filed with the city
22 clerk and the county clerk or clerks and become effective upon such
23 filing.

24 (3) The county board of any county which has created an inland port
25 authority pursuant to subsection (3) of section 4 of this act shall
26 designate what areas within the county shall comprise the inland port
27 district, subject to the limitations of the Municipal Inland Port
28 Authority Act. The boundaries of any inland port district shall be filed
29 with the county clerk and shall become effective upon approval of the
30 county board. The county board may from time to time enlarge or reduce
31 the area comprising any inland port district, except that such district

1 shall not be reduced to an area less than three hundred acres. Any change
2 of boundaries shall be filed with the county clerk and become effective
3 upon such filing.

4 Sec. 6. (1) An inland port authority shall have the power to:

5 (a) Plan, facilitate, and develop the inland port district in
6 conjunction with the city, the county or counties, and other public and
7 private entities, including the development of publicly-owned
8 infrastructure and improvements within the inland port district;

9 (b) Engage in marketing and business recruitment activities and
10 efforts to encourage and facilitate development of the inland port
11 district;

12 (c) Apply for and take all other necessary actions for the
13 establishment of a foreign trade zone, as provided under federal law,
14 within the inland port district;

15 (d) Issue and sell revenue bonds as provided in section 8 of this
16 act;

17 (e) Acquire, own, lease, sell, or otherwise dispose of interest in
18 and to any real property and improvements located thereon, and in any
19 personal property, necessary to fulfill the purposes of the inland port
20 authority;

21 (f) Acquire rights-of-way and property of any kind or nature within
22 the inland port district necessary for its purposes by purchase or
23 negotiation;

24 (g) Enter into lease agreements for real or personal property,
25 either as lessee or lessor;

26 (h) Sue and be sued in its own name;

27 (i) Enter into contracts and other instruments necessary,
28 incidental, or convenient to the performance of its duties and the
29 exercise of its powers, including, but not limited to, agreements under
30 the Interlocal Cooperation Act with the city, the county or counties, or
31 any other political subdivision of this or any other state;

1 (j) Borrow money from private lenders, from the state, or from the
2 federal government as may be necessary for the operation and work of the
3 inland port authority;

4 (k) Accept appropriations, including funds appropriated by the
5 Legislature pursuant to section 81-12,146, contributions, gifts, grants,
6 or loans from the United States, the State of Nebraska, political
7 subdivisions, or other public and private agencies, individuals,
8 partnerships, or corporations;

9 (l) Employ such managerial, engineering, legal, technical, clerical,
10 accounting, advertising, administrative, or other assistance as may be
11 deemed advisable, or to contract with independent contractors for any
12 such assistance;

13 (m) Adopt, alter, or repeal its own bylaws, rules, and regulations
14 governing the manner in which its business may be transacted, except that
15 such bylaws, rules, and regulations shall not exceed the powers granted
16 to the inland port authority by the Municipal Inland Port Authority Act;

17 (n) Enter into agreements with private operators or public entities
18 for the joint development, redevelopment, reclamation, and other uses of
19 property within the inland port district; and

20 (o) Own and operate an intermodal facility and other publicly-owned
21 infrastructure and improvements within the boundaries of the inland port
22 district.

23 (2) An inland port authority shall neither possess nor exercise the
24 power of eminent domain.

25 Sec. 7. The State of Nebraska and any municipality, county, or
26 other political subdivision of the state may, in its discretion, with or
27 without consideration, transfer or cause to be transferred to any inland
28 port authority or place in its possession or control, by lease or other
29 contract or agreement, either for a limited period or in fee, any real
30 property within its inland port district. Nothing in this section shall
31 in any way impair, alter, or change any obligations of such entities,

1 contractual or otherwise, existing prior to the effective date of this
2 act.

3 Sec. 8. (1) An inland port authority created under the Municipal
4 Inland Port Authority Act may issue and sell revenue bonds necessary to
5 provide sufficient funds for achieving its purposes, including the
6 construction of intermodal facilities and the financing of port
7 improvement projects, except that such authority shall not issue or sell
8 general obligation bonds.

9 (2) The State of Nebraska shall not be liable for any bonds of any
10 inland port authority. Any such bonds shall not be a debt of the state
11 and shall contain on the faces thereof a statement to such effect.

12 (3) No commissioner of any board of any inland port authority or any
13 other authorized person executing inland port authority bonds shall be
14 personally liable on such bonds or be subject to any personal liability
15 or accountability by reason of the issuance thereof.

16 Sec. 9. No inland port authority shall be required to pay any taxes
17 or any assessments whatsoever to the State of Nebraska or to any
18 political subdivision of the state. The bonds of every inland port
19 authority and the income therefrom shall, at all times, be exempt from
20 any taxes and any assessments, except for inheritance and gift taxes and
21 taxes on transfers.

22 Sec. 10. (1) An inland port authority shall be administered by the
23 board which shall consist of:

24 (a) If created by a city of the metropolitan class, nine members;

25 (b) If created by a city of the primary class, seven members;

26 (c) If created by a city of the first class, five members;

27 (d) If jointly created by a city of the metropolitan class and one
28 or more counties, eleven members;

29 (e) If jointly created by a city of the primary class and one or
30 more counties, nine members;

31 (f) If jointly created by a city of the first class and one or more

1 counties, seven members; or

2 (g) If created by a county, nine members.

3 (2) Upon the creation of an inland port authority under subsection
4 (1) or (2) of section 4 of this act, the mayor of the city that created
5 the authority, with the approval of the city council, and, if the
6 authority is created under subsection (2) of section 4 of this act, with
7 the approval of the county board or boards, shall appoint a board to
8 govern the authority. Members of the board shall be residents of the
9 city, or, if the authority is created under subsection (2) of section 4
10 of this act, members of the board shall be residents of the county or
11 counties.

12 (3) Upon the creation of an inland port authority under subsection
13 (3) of section 4 of this act, the chairperson of the county board, with
14 the approval of the county board, shall appoint a board to govern the
15 authority. Members of the board shall be residents of the county.

16 (4) The members of the board of any inland port authority created
17 under section 4 of this act shall be appointed to staggered terms of four
18 years in such a manner to ensure that the terms of no more than three
19 members expire in any one year.

20 (5) Any vacancy on the board of an inland port authority shall be
21 filled in the same manner as the vacating board member was appointed to
22 serve the unexpired portion of the board member's term.

23 Sec. 11. (1) No individual may serve as a commissioner or an
24 employee of an inland port authority if:

25 (a) The individual or a family member of the individual owns an
26 interest in any real property located within the boundaries of the inland
27 port district; or

28 (b) The individual or a family member of the individual owns an
29 interest in, is directly affiliated with, or is an employee or officer of
30 a private firm, company, or other entity that the individual reasonably
31 believes is likely to:

1 (i) Participate in or receive a direct financial benefit from the
2 development of the inland port district; or

3 (ii) Acquire an interest in any facility located within the inland
4 port district.

5 (2) Before taking office as a commissioner or accepting employment
6 with an inland port authority, an individual shall submit to the
7 authority a statement verifying that the individual's service as a
8 commissioner or an employee will not violate subsection (1) of this
9 section.

10 (3) An individual shall not, at any time during the individual's
11 service as a commissioner or an employee of an inland port authority,
12 acquire or take any action to initiate, negotiate, or otherwise arrange
13 for the acquisition of an interest in any real property located within
14 the boundaries of the inland port district.

15 (4) A commissioner or an employee of an inland port authority shall
16 not receive a direct financial benefit from the development of any real
17 property located within the boundaries of the inland port district.

18 Sec. 12. (1) The board shall cause minutes of meetings and a record
19 to be kept of all its proceedings. Meetings of the board shall be subject
20 to the Open Meetings Act.

21 (2) An inland port authority's records and documents, except those
22 which may be lawfully excluded, shall be considered public records for
23 purposes of sections 84-712 to 84-712.09.

24 Sec. 13. (1) The city council of a city that created an inland port
25 authority under subsection (1) of section 4 of this act or the county
26 board of a county that created an inland port authority under subsection
27 (3) of section 4 of this act may dissolve such inland port authority if
28 such inland port authority has no outstanding obligations. The inland
29 port authority shall be dissolved as of the date of approval by the city
30 council or county board. All funds and other assets of the inland port
31 authority shall be transferred upon dissolution to the city or county.

1 (2) The city council of a city and the county board or county boards
2 of a county or counties that created an inland port authority under
3 subsection (2) of section 4 of this act may dissolve such inland port
4 authority if such inland port authority has no outstanding obligations.
5 The inland port authority shall be dissolved as of the date of approval
6 by the city council and the county board or boards. Upon dissolution, all
7 funds and other assets of the inland port authority shall be transferred
8 to the city or the county or counties as agreed upon by the city and
9 county or counties.

10 Sec. 14. Section 81-12,146, Revised Statutes Cumulative Supplement,
11 2020, is amended to read:

12 81-12,146 (1) The Site and Building Development Fund is created.
13 The fund shall receive money pursuant to section 76-903 and may include
14 revenue from appropriations from the Legislature, grants, private
15 contributions, repayment of loans, and all other sources. The Department
16 of Economic Development, as part of its comprehensive business
17 development strategy, shall administer the fund. Any money in the fund
18 available for investment shall be invested by the state investment
19 officer pursuant to the Nebraska Capital Expansion Act and the Nebraska
20 State Funds Investment Act.

21 (2) It is the intent of the Legislature to transfer five million
22 dollars from the General Fund to the Site and Building Development Fund
23 for fiscal year 2022-23 and fiscal year 2023-24. Such money shall be
24 placed in a subaccount of the Site and Building Development Fund and
25 earmarked for use to fund large shovel-ready commercial and industrial
26 sites developed under the Municipal Inland Port Authority Act.

27 Sec. 15. Section 81-12,147, Revised Statutes Cumulative Supplement,
28 2020, is amended to read:

29 81-12,147 (1) Except as provided in subsection (2) of section
30 81-12,146, the The Department of Economic Development shall use the Site
31 and Building Development Fund to finance loans, grants, subsidies, credit

1 enhancements, and other financial assistance for industrial site and
2 building development and for expenses of the department as appropriated
3 by the Legislature for administering the fund. The following activities
4 are eligible for assistance from the fund:

5 (a) ~~(1)~~ Grants or zero-interest loans to villages, cities, or
6 counties to acquire land, infuse infrastructure, or otherwise make large
7 sites and buildings ready for industrial development;

8 (b) ~~(2)~~ Matching funds for new construction, rehabilitation, or
9 acquisition of land and buildings to assist villages, cities, and
10 counties;

11 (c) ~~(3)~~ Technical assistance, design and finance services, and
12 consultation for villages, cities, and counties for the preparation and
13 creation of industrial-ready sites and buildings;

14 (d) ~~(4)~~ Loan guarantees for eligible projects;

15 (e) ~~(5)~~ Projects making industrial-ready sites and buildings more
16 accessible to business and industry;

17 (f) ~~(6)~~ Infrastructure projects necessary for the development of
18 industrial-ready sites and buildings;

19 (g) ~~(7)~~ Projects that mitigate the economic impact of a closure or
20 downsizing of a private-sector entity by making necessary improvements to
21 buildings and infrastructure; and

22 (h) ~~(8)~~ Public and private sector initiatives that will improve the
23 military value of military installations by making necessary improvements
24 to buildings and infrastructure.

25 (2) The Department of Economic Development shall use the subaccount
26 of the Site and Building Development Fund described in subsection (2) of
27 section 81-12,146 to provide financial assistance to any inland port
28 authority created under the Municipal Inland Port Authority Act to help
29 finance large shovel-ready commercial and industrial sites developed
30 under such act.

31 Sec. 16. Section 81-12,148, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 81-12,148 (1) Governmental subdivisions and Nebraska nonprofit
3 organizations are eligible to receive assistance under the Site and
4 Building Development Act. Any entity receiving assistance under the act
5 shall provide, or cause to be provided, matching funds for the eligible
6 activity in an amount determined by the Department of Economic
7 Development, which amount shall be at least equal to one hundred percent
8 of the amount of assistance provided by the Site and Building Development
9 Fund. Nothing in the act shall be construed to allow individuals or
10 businesses to receive direct loans from the fund.

11 (2) This section does not apply to any inland port authority
12 receiving assistance under subsection (2) of section 81-12,147.

13 Sec. 17. Section 81-12,149, Revised Statutes Cumulative Supplement,
14 2020, is amended to read:

15 81-12,149 (1) During each calendar year in which funds are available
16 from the Site and Building Development Fund for use by the Department of
17 Economic Development, the department shall allocate a specific amount of
18 funds, not less than forty percent, to nonmetropolitan areas. For
19 purposes of this section, nonmetropolitan areas means counties with fewer
20 than one hundred thousand inhabitants according to the most recent
21 federal decennial census. In selecting projects to receive fund
22 assistance, the department shall develop a qualified action plan by
23 January 1 of each even-numbered year. The plan shall give first priority
24 to financially viable projects that have an agreement with a business
25 that will locate a site within ninety days of the signed agreement and to
26 financially viable projects located in whole or in part within an
27 enterprise zone designated pursuant to the Enterprise Zone Act or an
28 opportunity zone designated pursuant to the federal Tax Cuts and Jobs
29 Act, Public Law 115-97. The plan shall set forth selection criteria to be
30 used to determine priorities of the fund which are appropriate to local
31 conditions, including the community's immediate need for site and

1 building development, proposed increases in jobs and investment, private
2 dollars leveraged, level of local government support and participation,
3 and repayment, in part or in whole, of financial assistance awarded by
4 the fund. The Director of Economic Development shall submit the plan to
5 the Governor for approval.

6 (2) The department shall fund in order of priority as many
7 applications as will utilize available funds less actual administrative
8 costs of the department in administering the program. In administering
9 the program the department may contract for services or directly provide
10 funds to other governmental entities or instrumentalities.

11 (3) This section does not apply to any inland port authority
12 receiving assistance under subsection (2) of section 81-12,147.

13 Sec. 18. The Revisor of Statutes shall assign sections 1 to 13 of
14 this act to a new article in Chapter 13.

15 Sec. 19. Original section 81-12,148, Reissue Revised Statutes of
16 Nebraska, and sections 81-12,146, 81-12,147, and 81-12,149, Revised
17 Statutes Cumulative Supplement, 2020, are repealed.